

USE OF FORCE

Henry County Police Department
Training Division

TERMINAL PERFORMANCE OBJECTIVE

- Given actual or hypothetical scenarios, students will determine when the use of force may be used against a subject in the performance of their official duties, in accordance with established federal and state law, the Fourth Amendment to the U.S. Constitution, the Georgia State Constitution and the Georgia Law Enforcement Handbook.

ENABLING OBJECTIVES:

- Discuss the elements of proof for the use of deadly force during the apprehension of a subject, codified in O.C.G.A. § 17-4-20.
- Discuss the U.S. Supreme Court ruling *Graham v. Connor* and its implication on all use of force by law enforcement officers.
- Define Objective Reasonableness.

ENABLING OBJECTIVES CON'T

- Discuss U.S. Supreme Court ruling *Tennessee v. Gardner* and its implications on Use of Force
- Discuss the U.S. Supreme Court ruling *Scott v. Harris* and what it means to us as law enforcement.

GENERAL ORDER

302.00

Use of Force

The purpose of this policy is to establish general guidelines and procedures for the lawful use of force during the performance of an officer's duties.

The emphasis and value placed on the preservation of human life in our society **requires that law enforcement officers exercise reasonable care and judgment in fulfilling the police function**. It is recognized that officers must be properly armed for the protection of society and themselves as long as the public is victimized, and officers are confronted with deadly force in the performance of their duties. All use of force will be judged against the "Objective Reasonableness" standard of the 4th Amendment. The use of force will be viewed from the perspective of an officer on the scene – NOT 20/20 hindsight.

USE OF FORCE

- Deadly force is never mandatory. It is an option that may be employed at the discretion of the officer involved.

USE OF FORCE

is imperative that Law Enforcement Officers enforcing local, state, and federal laws know exactly what their legal authority is, as well as the limitation of that authority.

Do you know what your legal authority is when enforcing the law of the State of Georgia?

FORCE DEFINED

Force:

Has been defined as “Power, violence, or pressure directed against a person or thing.

Deadly Force:

Violent action known to create a substantial risk of causing death or serious bodily harm

Black's Law Dictionary, 9th Edition, (2009)

USE OF FORCE

- “There are two categories of laws which law enforcement officer’s utilize on a daily basis. They are **statutory law** and **case law**. Since statutory law tells L.E. Officers which laws to enforce, then case law tells us how to enforce those laws.”

GENERAL DISCUSSION

Force may reasonably be used to:

- Compel compliance with lawful commands
- Overcome physical resistance by a subject
- Prevent escape or restrain a subject for purposes of an arrest based on probable cause
- Detain or restrain a subject during an investigatory stop based on articulable reasonable suspicion
- Preempt a risk of injury to the officer or others (self-defense or defense of others), or
- Achieve other legitimate law enforcement purposes when mere presence and verbal commands fail

REACTION TIME

- Reaction time is the difference between onset of a stimulus and the onset of a response
- Average human reaction time .14 sec -.16 sec for sound and .18 sec - .20 sec for visual stimulus
- Key grab experiment
 - Keys on desk 12” from you, 24” from neighbor
 - When your neighbor reaches for the keys, you take them off the desk.
 - Who won?

NOT REQUIRED TO WAIT

“[A]n officer is **not required to wait** until an armed and dangerous felon has drawn a bead on the officer or others before using deadly force.”

Montoute v. Carr 114 F.3d 181, (11th Cir 1997)

CONROE TX DEPUTY SHOT



Graham v Connor Also referred to as “reasonable officer”.

If the officer uses a level of force that another reasonable officer would use (similar time, experience), the officer most likely will be justified.

Basically, force must be reasonable and necessary.



OBJECTIVE REASONABLENESS

Would an officer with similar training knowledge and experience have done the same thing if given similar circumstances.

Police Training Vs. Life Training

Police Experience Vs. Life experience

Police Knowledge Vs. Life Knowledge

OBJECTIVE REASONABLENESS CONT.

Who can define “Reasonableness”?

The U.S. Supreme Court has said that you cannot place a definitive definition on reasonableness nor can it be define by any mechanical means as it pertains the 4th Amendment to the U.S. Constitution.

GRAHAM V. CONNOR (1989)

All use of force will be judged against the “Objective Reasonableness” standard of the 4th Amendment. The use of force will be viewed from the perspective of an officer on the scene – NOT 20/20 hindsight. To do this – 4 part test:

- How serious is the offense?
- Did the suspect pose a threat to the Officer or others?
- Was the suspect actively resisting or trying to evade arrest?
- Flight Risk?

FACTORS TO CONSIDER

- Officer/Subject Factors
- Age
- Gender
- Size Difference
- Skill Level
- Number of Officers to Suspects
- Suspects level of resistance

FACTORS CONTINUED

- Special Circumstances
- Medical Conditions
- Sudden Assault
- Officer Physical Conditions
- Officer Perceptions at that time
- Suspects ability to escalate force
- Officers Injuries or Exhaustion

TENNESSEE VS. GARNER - (CON'T)

- Property crimes (burglary, trespass, etc.) generally do not authorize deadly force on an **unarmed, non-dangerous fleeing felon**.
- However, if the suspect threatens the officer with a weapon, or if the officer has **PROBABLE CAUSE** to believe that the subject has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent the escape.

SCOTT V HARRIS (2007)

Affirmed the U.S. Supreme Court ruling in *Graham V Connor*.

Showed us that once an officer decides on a level of force the means of implication are irrelevant.

Also affirmed the U.S. Supreme Court ruling in *Mixen V Warner Robbins* in that a pursuit in and of itself cannot be deemed the proximate cause for an injury.

LAWFUL FORCE

Using lawful force is justified when the officer reasonably believes that such force is necessary but limited to:

1. Preserve the peace and/or prevent the commission of offenses;
2. Prevent suicide or self-injury;
3. Make a lawful arrest;
4. Conduct a lawful search;
5. Overcome resistance to a lawful arrest or search;
6. Prevent escape from custody; or
7. In self-defense or in defense of another against an imminent and unlawful act of violence.

DUTY TO INTERVENE WHEN OBSERVING THE USE OF EXCESSIVE FORCE

- Regarding the duty of an Officer to intervene when they observe other Officers commit an act or acts of excessive force in their presence:
- *Samuels v. Cunningham et al.*, 2003 U.S. Dist. (Del.)
- *Jones v. City of Hartford*. 2003 U.S. Dist. (CT)
- Basically: “ Police Officers have an affirmative duty to intercede on behalf of a citizen whose constitutional rights are being violated in their presence by other Officers.”
- Officer may incur personal civil/criminal liability

DEADLY FORCE

O.C.G.A. 17-4-20 (b)

b. Sheriffs and peace officers who are appointed or employed in conformity with Chapter 8 of Title 35 may use deadly force to apprehend a suspected felon only when the officer reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury;

1. When the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others.

2. When there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm.”

Questions???